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Impasse Procedures for Protective Services Units

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The Illinois Labor Relations Boards' Rules and Regulations concerning impasse resolution detail the procedures for giving required notices during collective bargaining, for resolving impasses in collective bargaining, for making appointments to the Illinois Public Employees Mediation/Arbitration Roster, and for the selection of mediators, fact-finders and arbitrators from the Roster. The regulations implement the policies of the Illinois Public Labor Relations Act ("Act") to provide peaceful and orderly procedures to protect the rights of public employers, public employees, labor organizations and the general public, to prevent labor strife and to protect the public's health and safety.

This brochure contains answers to the most commonly asked questions concerning the Boards' impasse procedures for protective service units.

Q. What are protective service units?

- A. Protective service units are bargaining units containing security employees, peace officers, firefighters or paramedics.

Q. How are protective service units different from units of other public employees?

- A. Unlike units for general public employees, units of protective service employees may not withhold services or strike, nor may any public employer lockout or prevent protective service employees from performing services at any time.

Q. What is the first step in the bargaining and/or impasse resolution procedures for protective service units?

- A. 1) For Successor Contracts:

Any party who wishes to terminate or modify an existing agreement must serve written notice 60 days prior to the scheduled termination date of that agreement on the other party and a copy of such notice shall be filed with the Board.

If the parties have not reached agreement 30 days after service of the notice to terminate or modify, the party who filed the original notice shall serve on the other party and the Board a Notice of No Agreement. This Notice gives a current statement of status of negotiations. The Act states that mediation must commence 30 days prior to the expiration date of the Agreement. If both parties agree that they do not wish to proceed to mediation at this time they must state so in the Notice of No Agreement.

2) For Initial Contracts:

Any time after the Board certifies an exclusive representative or at any time where there exists a valid historical bargaining relationship but no current contract, any party may serve on the other party, and copy the Board, a written demand for bargaining. Bargaining shall begin at any reasonable time thereafter.

30 days after the initial bargaining session the party who filed the demand for bargaining shall file a Notice of Status of Negotiations with the Board.

The parties may request mediation any time after commencement of bargaining, pursuant to a good faith request of either party. A request for mediation may also be made at the time the Notice of Status of Negotiations is filed with the Board.

Q. What is mediation?

- A. Mediation is when a third party, the mediator, attempts to assist the parties in reaching agreement.

Q. How does a party proceed to mediation?

- A. Should the parties desire the assistance of the Board in engaging a mediator, the Board will provide a panel of three mediators from the Public Employees Mediation/Arbitration Roster. The parties shall choose one of the persons on the panel to serve

as the mediator within 7 days after receipt of the list or the Board will appoint the mediator. The parties also have the option of choosing a mediator on their own with no assistance from the Board. The Board, however, shall be informed of their selection.

Q. What is the Public Employees Mediation/Arbitration Roster?

- A. The State Labor Relations Board and the Local Labor Relations Board are responsible for establishing and maintaining the Illinois Public Employees Mediation/Arbitration Roster, which is a list of qualified mediators and arbitrators in Illinois. This Roster is available for use in mediation, compulsory interest arbitration, grievance arbitration and grievance mediation. Appointments to the Roster are based upon a majority vote of the members of both Boards, after application by the individual.

In making appointments to the Roster, the Boards consider such factors as experience and training, membership on other recognized mediation or arbitration panels, education, prior published awards, current advocacy in employment relations matters, letters of recommendation supporting the application, and any other relevant material supplied by the applicant or requested by the Boards. Individuals appointed to the Roster are required to be residents of the State of Illinois.

Q. What happens during mediation?

- A. The mediator may hold joint or separate conferences with the parties in order to bring about an amicable and voluntary settlement of the dispute. Information disclosed at such conferences shall not be disclosed by the mediator either voluntarily or by compulsion. If, at this stage, the parties reach agreement on a collective bargaining agreement the parties shall file a copy of the contract with the Board.

Q. What if mediation fails to result in a contract?

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A. Then, the parties shall utilize compulsory interest arbitration.

Q. What is compulsory interest arbitration?

A. Compulsory interest arbitration is a process whereby an employer and an exclusive representative submit their disputes concerning the terms of a new collective bargaining agreement for resolution by a neutral third party.

Q. Who can file a request for compulsory interest arbitration and when can such a request be made?

A. Either party may file a Demand for Compulsory Interest Arbitration.

1) Successor Contracts — either party may file a Demand for Compulsory Interest Arbitration at any time 14 days prior to the scheduled expiration of the existing contract provided:

- a) Parties have engaged in mediation;
- b) parties have waived mediation; **or**
- c) the party seeking arbitration has made a good faith request for mediation and the other party refused.

2) Initial Contract — such a request may be filed at any time beginning 16 days after mediation began or was refused; **or** such a request may be filed at any time if both parties have agreed to waive mediation.

Q. How is the Interest Arbitration Panel Selected?

A. Unless otherwise agreed to in writing by the parties, the arbitration panel consists of three members: The employer's delegate, the exclusive representative's delegate, and the neutral chairman. The neutral chairman is selected from a list of seven qualified interest arbitrators selected from the Illinois Public Employees Mediation/Arbitration Roster, unless the parties have notified the Board that they wish to use an alternate source of interest arbitrators. If the parties fail to notify the Board of their selection within 5 days following

the provision of the list, the Board appoints the neutral chairman from the Roster. Each party shall notify the Board of their delegate to the panel within 10 days following the Demand for Compulsory Interest Arbitration.

The neutral chairman of the arbitration panel shall provide the parties with reasonable notice of a hearing to commence within 15 days following his/her appointment. The parties may agree in writing to extend the time for commencement of the hearing for a period of time not to exceed 90 days. The hearing must conclude within 30 days following its commencement, unless the parties agree to extend this period.

Q. What occurs during an interest arbitration hearing?

- A. Interest arbitration hearings are informal but shall be transcribed. The technical rules of evidence do not apply. The neutral chairman controls the hearing, issuing subpoenas and taking testimony to ensure it is concluded expeditiously. The panel may administer oaths, require the attendance of witnesses and the production of material papers, agreements and documents.

The arbitration panel also:

- 1) Determines which issues are in dispute, which of those issues are economic issues and serves a copy of that determination on the parties; and
- 2) requires the parties to submit their final offers of settlement on each economic issue in dispute.

The panel may allow the parties reasonable additional time, as determined by the number and the complexity of the issues, for presenting written or oral arguments in support of their positions.

Q. Are there any issues that cannot be considered by the arbitration panel?

- A. In arbitration proceedings involving peace officers, firefighters or paramedics, the panel cannot consider or render an award

on residency requirements, the total number of employees employed by the department, mutual aid and assistance agreements to other units of government, and the criteria by which force, including deadly force, can be used. The panel will consider the type of equipment, other than uniforms, issued or used, or manning levels for peace officers, only if it finds that the issue involves a serious risk to the safety of the employee beyond that which is inherent in the normal performance of his/her duties.

Q. When is the arbitration award issued?

A. The panel is required to issue an award within 30 days after the conclusion of the hearing unless the parties agree to an additional time period. An award shall be filed with the Board and is considered issued on the day it is served on the employer.

Q. What does the arbitration award contain?

A. The award contains findings of fact and a written opinion on each issue in dispute. The panel shall adopt the final offer of one of the parties on each economic issue.

Q. What factors shall the panel consider in reaching its decision?

A. With respect to both economic and non-economic issues, the panel is required to consider such factors as:

- 1) The lawful authority of the employer;
- 2) the stipulations of the parties;
- 3) the public welfare and interests, and the employer's financial ability;
- 4) a comparison of wages and conditions of employment with comparable communities;
- 5) the average consumer prices for goods and services;
- 6) the overall compensation received by the employees;
- 7) any changes in the above factors occurring during the course of the arbitration; and/or

- 8) any other factors normally used in mediation, collective bargaining, fact-finding and arbitration.

Q. Is the decision of the panel binding?

- A. The governing body may reject any terms of the award by a three-fifths vote of those duly elected and qualified members of the governing body. Such rejection vote shall occur within 20 days after the service of the award. Written reasons for its rejection shall be served by the governing body on the parties and the neutral chairman no later than 20 days after the rejection vote. The neutral chairman shall call together the panel and convene a supplemental hearing within 30 days after issuance of the reasons for rejection. Any term not rejected in this manner becomes a part of the parties' collective bargaining agreement.

Q. Does the same neutral chairman oversee the panel for the supplemental hearing?

- A. The parties may mutually agree to select a different neutral chairman for the supplemental hearing, providing they notify the Board and the original neutral chairman within 7 days after service of the reasons for rejection of the award.

Q. Who pays the cost of the arbitration proceeding?

- A. In initial proceedings, the cost of the neutral arbitrator, recording and transcribing, hearing room rent, and other costs are shared equally by the parties. In supplemental proceedings, the employer shall pay for all reasonable costs.